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OFFICE OF PETITIONS

In re Application of :
Shunpei Yamazaki et al :
Application No. 09/578,895 : **DECISION ON PETITION**
Filed: May 26, 2000 :
Attorney Docket No. 0756-2160 :

This is a decision on the petition, filed December 27, 2006, which is being treated as a petition under 37 CFR 1.8(b), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely pay the issue fee on or before October 26, 2006, as required by the Notice of Allowance and Fee(s) Due, mailed July 26, 2006. A Notice of Abandonment was mailed on December 5, 2006.

Petitioner states that a timely reply was facsimile transmitted on October 25, 2006, which included the following papers: a request for continued examination and an Information Disclosure Statement. Petitioner has submitted a copy of the previously transmitted correspondence, which bears a certificate of facsimile transmission, dated October 25, 2006, which would have been before the due date for payment of the issue fee. Additionally, the petition is accompanied by a copy of the facsimile transmission report, which acknowledges receipt of 4 pages in the USPTO at facsimile transmission number 273-8300. The Auto-Reply Facsimile Transmission report includes the cover page for the request for continued examination.

The file record does not include the originally transmitted papers. Failure to receive correspondence which includes a certificate of mailing or certificate of facsimile transmission is addressed in 37 CFR 1.8(b), reproduced below:

In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time

has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:


- (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
- (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
- (3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

The petition satisfies the above requirements of 37 CFR 1.8(b). Accordingly, the holding of abandonment is hereby withdrawn and the Notice of Abandonment vacated. This application has been restored to pending status.

The copy of the request for continued examination and IDS received with the petition will be accepted in place of the correspondence shown to have been transmitted by facsimile on October 25, 2006.

As authorized, the \$790 request for continued examination fee will be charged to petitioner's deposit account.

This application is being referred to Technology Center AU 2811 for processing of the request for continued examination and for appropriate action in the normal course of business on the IDS.


Frances Hicks
Petitions Examiner
Office of Petitions